

Matthew Franklin Jaksa (CA State Bar No. 248072)
HOLME ROBERTS & OWEN LLP
560 Mission Street, 25th Floor
San Francisco, CA 94105-2994
Telephone: (415) 268-2000
Facsimile: (415) 268-1999
Email: matt.jaksa@hro.com

Attorneys for Plaintiffs,
UMG RECORDINGS, INC.; CAPITOL
RECORDS, INC.; FONOVISIA, INC.; and
INTERSCOPE RECORDS

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

UMG RECORDINGS, INC., a Delaware
corporation; CAPITOL RECORDS, INC., a
Delaware corporation; FONOVISIA, INC., a
California corporation; and INTERSCOPE
RECORDS, a California general partnership,

Plaintiffs,

v.

JOHN DOE,

Defendant.

CASE NO. 4:08-CV-01038-SBA

Honorable Sandra Brown Armstrong

***EX PARTE APPLICATION TO CONTINUE
CASE MANAGEMENT CONFERENCE
AND [PROPOSED] ORDER***

1 Plaintiffs respectfully request that the Court continue the case management conference
2 currently set for May 28, 2008 at 2:30 p.m. to August 27, 2008. As set forth in greater detail below,
3 Plaintiffs have not yet discovered the true identity of the Doe defendant in this case, and will be
4 unable to do so unless the Court grants Plaintiffs' *Ex Parte* Application for Leave to Take Immediate
5 Discovery, filed on February 21, 2008 and entered as Docket No. 3.

6 1. Plaintiffs have not requested any previous continuances of the case management
7 conference in this matter.

8 2. Plaintiffs filed the Complaint for Copyright Infringement against Defendant John Doe
9 ("Defendant") on February 21, 2008. Plaintiffs did not have sufficient identifying information to
10 name the defendant in the Complaint, but were able to identify Defendant by the Internet Protocol
11 address assigned by Defendant's Internet Service Provider ("ISP").

12 3. In order to determine Defendant's true identity, Plaintiffs filed their *Ex Parte*
13 Application for Leave to Take Immediate Discovery on February 21, 2008, seeking the Court's
14 permission to serve a Rule 45 subpoena on the ISP. The Court has not yet ruled on Plaintiffs' *Ex*
15 *Parte* Application for Leave to Take Immediate Discovery.

16 4. If the Court grants Plaintiffs' *Ex Parte* Application for Leave to Take Immediate
17 Discovery, Plaintiffs will attempt to determine Defendant's identity by serving a Rule 45 subpoena
18 on the ISP seeking identifying information including Defendant's name, address, and telephone
19 number. If Defendant is identified, Plaintiffs will give Defendant written notice of their claim and
20 attempt to contact Defendant and resolve the dispute. If the dispute cannot be resolved, Plaintiffs
21 plan to file a First Amended Complaint naming Defendant individually and then proceed to serve
22 process upon him or her.

23 5. However, unless the Court grants Plaintiffs' *Ex Parte* Application for Leave to Take
24 Immediate Discovery, Plaintiffs cannot identify the Doe defendant, initiate settlement talks, or file
25 an amended complaint and begin service attempts.

26 6. Given the foregoing circumstances, and because there is no known defendant with
27 whom to confer, a case management conference is unnecessary at this time. Plaintiffs therefore
28

1 respectfully request that the Court continue the case management conference currently set for May
2 28, 2008 at 2:30 p.m. to August 27, 2008.

3
4 Dated: May 15, 2008

HOLME ROBERTS & OWEN LLP

5
6 By: /s/ Matthew Franklin Jaksa

7 MATTHEW FRANKLIN JAKSA

8 Attorney for Plaintiffs

9
10 **[PROPOSED] ORDER**

11 Good cause having been shown:

12 **IT IS ORDERED** that the case management conference currently set for May 28, 2008 at
13 2:30 p.m. be continued to August 27, 2008.

14
15
16
17 Dated: _____

By: _____

18 Honorable Sandra Brown Armstrong
19 United States District Judge